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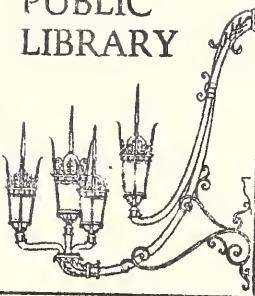
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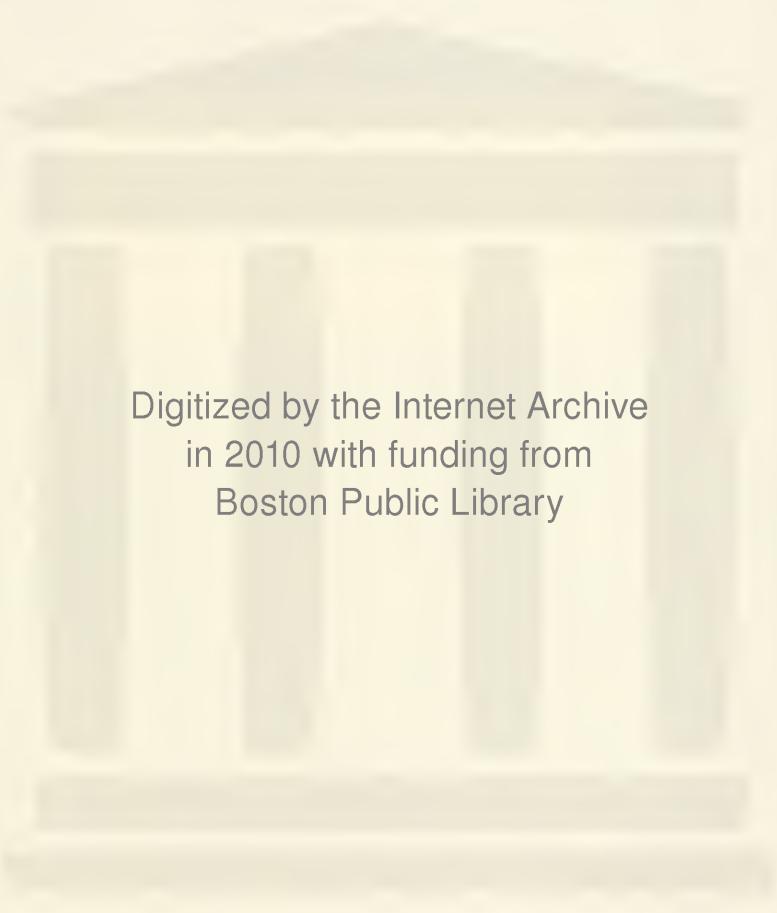
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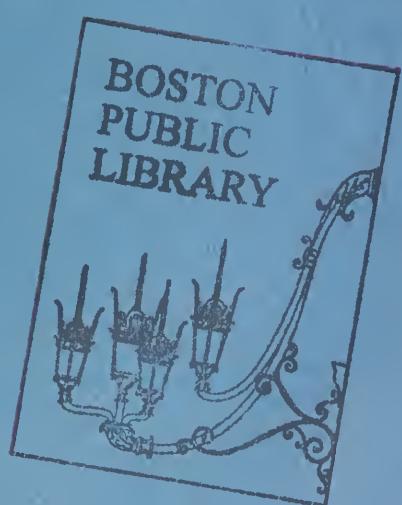
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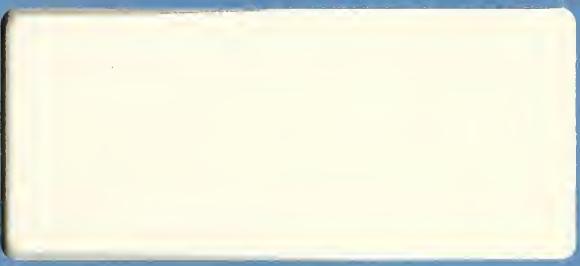
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An Investigation into Massachusetts Public Housing

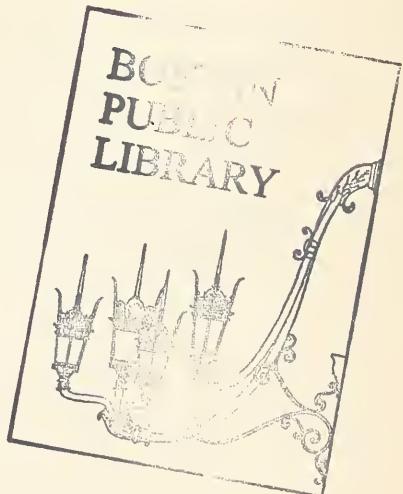
Submitted by:

Paul H. Rothschild

Eileen B. Goldin

July 28, 1969

Summer
students
at state DCA



TYPE

Chapter 121 of the General Laws harbors one pervasive trait: a blatant lack of legislative mandates committing the Commonwealth and compelling the localities to meet the housing crisis. Over and over, states of necessity - even emergency - are recognized; time after time, the legislature presents perceptive discussions of problem areas. Again ad infinitum, they fail to yoke obligation's responsibility to concern's sentiments. It is obvious - from a close reading of the laws - that Massachusetts has failed where even the Federal Government is not as negligent: committing the government and its resources to specific production schedules and to an overall policy statement (at least in the laws.)

However, the prospect of strong program commitments within the next two years has been brought about by the legislation that created the Department of Community Affairs as of November 1, 1968. The excerpts from Chap. 761 that appear in Appendix II list the content of a program that the new Department is required to file formally by December 9, 1970. The result should be a quantitative commitment by the State to the several housing programs managed by the Department.

The following pages present individual housing laws. Notice that while forceful general mandates are non-existent, each law carries with it purposes and directives of how the law should be implemented - certain of which may be considered as "sub-mandates." But, next to the law's empowering of local housing authorities as the chief architects of the Commonwealth's programs, virtually castrating the state housing board or DCA, this occurrence becomes far less significant.

I. Veterans' Low-rent Housing - Mass. Gen. Laws, Ch. 121, Sect. 26NN-PP

General Declaration of Need* for Low-cost Housing
Ch. 121

Section 26X. Statement of Emergency. It is hereby declared that sub-standard and decadent areas exist in certain portions of the commonwealth, and that there is not in the commonwealth, within a reasonable distance of the principal centers of employment, an adequate supply of low-rent housing for families of low income; that in certain portions of the commonwealth decent, safe and sanitary housing cannot be provided for families of low incomes in rural areas at a cost which would warrant private enterprise in the locality or in the same general area to provide an adequate supply thereof; that this situation tends to cause an increase and spread of disease and crime and constitutes a menace to the health, safety, morals, welfare and comfort of the inhabitants of the commonwealth and is detrimental to property values therein; that this situation cannot readily be remedied by the ordinary operators of private enterprise; that a public exigency exists which makes the clearance of sub-standard and decadent areas and the provision of housing for persons of low-income a public necessity; that the clearance of sub-standard and decadent areas and the provisions of housing for persons of low-income, or either, constitutes a public use for which private property may be acquired by eminent domain and public funds raised by taxation may be expended; and the enactment of sections 26 J to 26 NN, inclusive, is declared to be a public necessity. (1938, 48th, appvd. 7/5/38). Declared an emergency law; 1946, 57th, sec. 1, appvd. 6/14/46. Declared an emergency law).

* Declaration of need is here defined as a recognition by the legislature of a problem area, a statement which allows rather than obliges action to clear a problem.

Authorization

Ch. 200 of Acts of 1948

Purpose

The immediate mandate of the Veterans Housing Law of 1948 was to provide housing for veterans returning from World War II. The law set up the following order of priority for those to be aided:

1. Veterans of low income of W.W. II (and later Korea)
2. Other veterans of low income
3. Veterans and widows of veterans, and those over 50
4. Elderly persons with low income (26UU)
5. Persons of low income who are totally and permanently disabled and eligible for assistance under chapter 118D, or blind.
6. Others of low income living in substandard housing

Implementation*

Projects are implemented by the local housing authorities, which receive aid from the State in the form of guaranteed bonds and notes for terms of up to 40 years and contributions to the interest and principal on the notes. (see chart I) Any local housing authority is eligible for aid, but its plans for development must be approved by DCA. Rents must be adequate to cover operating expenses of the project, but must not exceed 20% of the tenant's income. This, of course, builds into the law a limit of a minimum as well as maximum

*Note: Under Ch. 572 of the Acts of 1946, housing was to be built by the local housing authorities, with 10% of the cost reimbursed by the State. The localities were to be allowed to borrow above their normal debt limits. Within five years, all units were to be sold to their veteran occupants. Thus, the law was designed for a specific need, and ceased operation when the State Veterans Housing Program was created in 1948. Under the 1948 law, 1,740 units were built at an average cost of \$11,200 per unit. Eighty per cent were 1 or 2-family houses, with the remaining units in 6 multifamily structures.

income to be accepted. Families whose incomes are not sufficient enough so that 20% covers operating expenses are omitted.

Production

Under the law and its amendments, \$225,000,000 was authorized for this program. (see chart for production) Since 1955, no building has taken place under this law, and the only money spent was that used to maintain the interest and principal on the bonds.

Comment

This was a limited program to meet a temporary crisis, and to this end it was successful. Unfortunately, this was the only low-rent housing program of any significance operating in the State in the 1950's.

Veterans' low-rent housing

Date	Funds Authorized	Funds Appropriated	Funds Expended	Projects and units produced	Existing Units
June 1965	previous auth. \$225,000,000 plus contrib.*	\$4,250,000	\$4,229,019	none	\$5,562 total program
June 1966		4,173,000	4,225,358	none	
June 1967		4,213,350	4,230,433	none	
June 1968		4,250,000	4,135,183	none	
June 1969		4,565,000	4,485,491	none	15,173

* Funds authorized represent amount that local housing authorities may borrow in the open market with state guarantee, and include authorization of appropriations of $2\frac{1}{2}$ per cent of total development cost (not to exceed \$5,625,000) plus extra $1\frac{1}{2}$ per cent (not to exceed \$1,088,520) if necessary to meet costs of temporary notes.

III. Low Rent Housing for the Elderly - Mass. Gen. Laws, Ch. 121, Sect. 26SS-WV

Declaration of Need for Elderly Housing
Ch. 121

HOUSING PROJECTS FOR ELDERLY PERSONS

SECTION 26SS. It is hereby declared that sub-standard and decadent areas exist in certain portions of the commonwealth and that there is not, in certain parts of the commonwealth, an adequate supply of decent, safe, and sanitary housing for elderly persons of low income, available for rents which such persons can afford to pay, and the rents which such persons can afford to pay would not warrant private enterprise in providing housing for such persons; that this situation tends to cause an increase and spread of communicable and chronic disease; that the lack of properly constructed dwelling units designed specifically to meet the needs of elderly persons aggravates those diseases peculiar to the elderly, thereby crowding the hospitals of the state with elderly persons under conditions of idleness that inevitably invite further senility; that this situation constitutes a menace to the health, safety, welfare and comfort of the inhabitants of the commonwealth and is detrimental to property values in the localities in which it exists; that this situation cannot readily be remedied by private enterprise; and that a public exigency exists which makes the provision of housing for elderly persons of low income and the clearance of sub-standard and decadent areas a public necessity; that the provision of housing for elderly persons of low income for the purpose of reducing the cost to the state of their care by promoting their health and welfare, thereby prolonging their productivity in the interest of the state and nation, and the clearance of sub-standard and decadent areas, or either, constitutes and hereby is declared to be a public use for which private property may be taken by eminent domain and public funds raised by taxation may be expended. 1953, 668, 7/3/53.
1954. 667. 6/10/54.

Authorization

Ch. 667 of Acts of 1954

Purpose

To provide housing for those over 65 and of low-income

Implementation

As in the veterans' program, projects are implemented by the local housing authority, which enters into contracts with the Commonwealth through DCA "for state financial assistance in the form of a guarantee by the Commonwealth of bonds and rates . . ." DCA formulates rules and regulations on matters ranging from tenant selections to health standards. Bond guarantees are for up to amount of cost for a term of 40 years. Annual contributions from the State are $2\frac{1}{2}\%$ of completion cost but may become 4% when necessary. The city or town contributes through appropriations and payments in lieu of taxes, and negotiates grants and loans.

Production

Refer to chart II

Comment

Displaying the usual pattern, Section 22SS toots a large declaration and ends with conditional permissiveness. The law does recognize the lack of adequate housing for the elderly; perception of need is not what is askew. Rather, this passage with its watered-down appearance fails to place the State behind housing for the elderly in reality - not just in rhetoric. (Though we must consider that the desires of the cities and towns have put results into this program, where the law, as far as the state is concerned, is quite wishy-washy). The key word, "may," comes after the expression of facts and sympathetic sentiments: you may but you don't have to. Likewise, the housing authority of each city "Shall have power" but need not use this power.

The statements in 26UU could be termed operational mandates. The Commonwealth has set up detailed directives on the nature of such housing - but directives in themselves do not build housing. These directives range from the sensitivity "there shall be no requirements that the occupants of such housing constitute families," to the priority "Projects or parts of projects shall be constructed for elderly persons of low income and shall be available and assigned to such persons without regard to their status as veterans upon the application of such elderly persons . . ." (The "shall" in the preceding citation loses its force of compulsion by the statement's placement, i.e. in rules such housing shall conform to.) The provision suggesting projects be near their tenants' prior neighborhood emphasizes the scope of this law and where the power is for implementation: the State has delegated its power to the localities.

Low-rent Housing for the Elderly

Date	Funds Authorized	Funds Appropriated	Funds Expended	Projects Produced	No. Units Completed	Total Existing Units
June 1965	previous autho.*	\$1,400,000	\$1,400,000	16	786	
June 1966	25,000,000	1,685,000	1,660,000	39	2,115	
June 1967	35,000,000	2,170,000	2,018,000	16	1,355	
June 1968		2,651,000	2,653,000	29	2,329	
June 1969		3,560,000	3,403,000	15	1,409	9,800

* Funds authorized represent amount that local housing authorities may borrow in the open market with state guarantee, and include authorization of appropriations of $2\frac{1}{2}$ per cent of total development cost, plus extra $1\frac{1}{2}$ per cent if necessary.

III. Low-rent Housing for Families - Mass. Gen. Laws, Ch. 121,
Sect. 26AA, FF

Authorization

Ch. 705 of Acts of 1966

Purpose

The mandate for low-rent housing for families reflected the fact that no low-rent housing had been built by the state since the termination in 1955 of building under the veterans program. Specifically, the law aims at providing housing for low-income families, with an emphasis toward those displaced by public action.

Implementation

The law is similar in its financing and management to the veterans program, but differs in the type of housing provided and the larger subsidies available. The State guarantees bonds and notes of acquisition or construction and contributes to the local housing authorities for payments on the principal and interest. Bonds are guaranteed up to the cost of the development of the project, with a maximum 40 year term and up to 5% state contribution on the original cost. Local housing authorities may also aid the programs with grants, loans, appropriations, and acceptance of payment in lieu of taxes. (Here again use of the word "may" seem to suggest rather than require action.)

Preference in selecting tenants is given to low-income families, especially those displaced by public action. However, rent limitations similar to those in the veterans program eliminate the lowest income group (Rent can be more than 20% of a family's income, but must be adequate to cover operating expenses.)

To initiate a project, a local housing authority must make a reasonable effort to obtain existing units in the private market.

Also, the legislature encourages building scattered site and small projects by limiting the number of units to be built (i.e.max. of 100 units per building; no project to be closer than 1/8 mile to any other.)

Production

The total authorization for this program is \$37,500,000 - the money left over from the veterans program when it ceased production in 1955. This use of funds that are left over seems to show a recognition of the change in housing problems in the State, but also shows a hesitation on the part of the legislature to commit the state to a full-scale war on the problem. So far, only 2 projects have been started - one in Medford with 10 units and another in Brockton with 64 units, and none are yet occupied.

Comment

It is obvious that although the legislature has recognized the need for low-income housing for families, it has yet to take any definite steps toward solving the problem. And here, as in the veterans program, the lowest (and neediest) income group has been left out altogether.

IV. Rental Assistance - Mass. Gen. Laws, Ch. 121, Sect. 26KK-NNI

Declaration of Need for Rental Assistance
Ch. 121

RENTAL ASSISTANCE PROGRAM

SECTION 26.KK. It is hereby declared (a) that there does not now exist within the Commonwealth an adequate supply of decent, safe and sanitary dwelling units available at rents which families of low-income can afford without depriving themselves of the other necessities of life, (b) that the elimination of sub-standard and decadent areas in the Commonwealth and the rehousing of the families now in such areas; many of

them of low income, in decent, safe and sanitary housing is a public necessity, (c) That experience has demonstrated that the construction of new low-rent housing projects on the large scale required to provide the needed dwelling units would be unduly expensive and would generate undesirable social consequences (d) that there exists a supply of moderate rental dwelling units within the Commonwealth presently under construction or vacant which could be used to house such families of low-income as cannot presently afford decent, safe and sanitary housing, provided public funds are available to supplement the portion of their income which they can afford to spend on housing, and (e) a program of rental assistance operated through the housing authorities in the cities and towns would help end the undesirable concentration and segregation of families of low income in separate, concentrated areas of our cities and towns and help give every citizen an equal opportunity to enjoy decent, safe and sanitary housing in a neighborhood of his own choice.

Authorization

Ch. 707 of Acts of 1966

Purpose

This program's goals are: to supplement public housing (when a shortage exists) by assisting low-income people in paying the price of moderate rental units, to scatter the number of low-income people in a given vicinity, and to break up segregated areas. The encouragement of new construction, and rehabilitation and remodelling of existing units becomes a sub-purpose as the law urges local authorities to lease such kinds of units.

Production

The law itself, implies a limited-assistance schedule, based on city

population (1965 census). It is:

1. Cities over 500,000 pop., not over 50% of such funds for any one city.
of 20% of such funds.

3. Cities under 100,000 pop., not in excess of 10% of such funds. Only
a few units have been leased under this program.

Comment

121KKK presents a still deeper recognition of the problems and public necessities in housing. Recognizing the social problems large public housing projects have accentuated, reflecting a desire to supplement high-rise emplacements with scattered individual low-income units, it is one that best expressions of "Great Society" - like rhetoric: The sympathy for the poor - even the black poor - is there. But somehow the fine phrasing has a hollow ring, lost through the lace of State enforcement power. It is the cities and towns which may take up the suggestion to end "undesirable concentration and segregation of families" The results speak of the alternative course of action they have taken.

The law in Sect. 26LLL sets up definite requirements governing implementation - requirements which amount to decrees. The housing authority must determine that a lack of low-rent public housing exists and that the proposed rent is not excessive prior to lease agreement. The ordinance for acattered placement is quite specific.

Section 121MMI represents the change in priority. It is a recognition of our current crisis - unlike the outdated eligibility listings given in Chapter 121, Section 26MMI (Veterans). The priority set up is:

1. Families with 4 or more minor dependants
2. Families displaced by public action
3. Elderly persons of low-income

That the State recognizes her responsibility to those whose housing she disrupts, that the law can declare "Amounts paid on behalf of tenant families under the rental assistance program shall not be considered in determining the amount of welfare or other public assistance payments" suggests a re-orientation of priorities - if only on a small scale and if only on paper.

The State's lack of active obligation, the cities and towns' lack of ability to cope or downright negligence has reduced fine priorities to empty words.

Chart III

Rental Assistance, Ch. 707, Acts of 1966

As of July 1, 1969:

Town	Expenditure per Year (payable in quarterly installments)	Units
Plymouth	\$2,655	9
No. Adams	852	3
Haverhill	19,650	
Revere	18,712	72
Quincy	48,464	114
Waltham	3,060	2
Salem	21,450	
total	<u>114,843*</u>	<u>25</u>

*Note: Housing Authority gets 10% administrative costs.

V. Massachusetts Housing Finance Agency

Authorization

Mass. Gen. Laws, Ch. 708, Acts of 1966

Purpose

The intended function of MHFA is to act as a lending institution, making long-term, low-interest loans for construction and rehabilitation of low and moderate-income housing.

Implementation

MHFA was established as an independent public agency within DCA, but not subject to its control. The agency is empowered to make loans to both profit and non-profit sponsors for construction costs and long-term financing of multifamily housing. The sponsor borrows funds in the private market, with the "good name of the State" as its backing. The 1968 amendment to the act allows the MHFA to make low-income families home buyers, or to buy units for resale to low-income families within one year from the date of purchase by the agency.

Both low and moderate income families are eligible for MHFA aid, but preference is given to those displaced by "government action and natural disaster." The local housing authorities are given responsibility of choosing the low-income families to receive aid. Rents are based on several different scales:

1. Moderate income

- a. based on market-rate of interest
- b. based on MHFA below-market rate

2. Low-income - 10% less than rents based on MHFA's below-market rate.

The MHFA will be financed through bonds and notes up to \$50,000,000 with initial working capital from a \$300,000 State loan. It operates as an independent public body, with the power to issue bonds and notes, make contracts with private individuals, and sue or be sued. Before making a loan, it must be established that there is a need for low and moderate income-housing in the general area. It must also be determined that private industry, without MHFA financing, could not supply these units. Thirdly, low-income families must be able to afford to rent 25% of the units in the project. Local housing authorities must agree to demolish an equal member of substandard units, unless a shortage of housing exists in the area.

Sponsors may be individuals, joint ventures, partnerships, limited partnerships, trusts, corporations, cooperatives, or condominiums organized as limited dividend or non-profit corporations. Sponsors must rent 25% of the units to low-income families, and the rest to those of moderate income. Also, the low-income units may be leased to local housing authorities so that they may operate the low-income section. Loans to sponsors may be made at higher than the MHFA below-market rate, but less than market rates of banks, etc. Also, the bonds issued are tax exempt.

Production

Among other things, litigation has held up any work under the MHFA program. But in June 1969, the Massachusetts Supreme Judicial Court issued a declaratory judgment to the effect that the law allowing MHFA loans to private sponsors was not unconstitutional. In April, 1969, \$13.9 million was given to 4 developers for 704 units, 3 of which include:

1. Hyde Park - 348 unit rental complex
2. Roxbury - 8 unit co-op
3. Cambridge - 260 unit co-op

Thus, some construction is expected in the near future.

This program represents a good idea - namely incorporating private investors into the low-income housing market. But as in other State programs, it fails to direct any specific action to carry out the program. The IHFA, while an almost autonomous agency, has been given a jumble of regulations to contend with - not to mention the local housing authorities. The idea of breaking up the ghettos by mixing low and moderate income families in the same projects may have merit, but the 25%-75% ratio calls for a lot of moderate-income building to house a few low-income families. Also, the minimum rent here, as in other programs, tends to limit how poor the tenants can be. This program, however, could be effective in heading off a shortage (as predicted by the Douglas Report) of moderate-income housing.

Examples of Legislative Directives to Local Housing Authorities

Section 26 CG. Equivalent Elimination of Sub- Standard Dwellings. No project for low-rent housing involving the construction of new dwellings shall be undertaken by a housing authority unless, subsequent to the initiation of the project and within five years after the completion thereof, condemnation, effective closing, or compulsory repair or improvement of unsafe or unsanitary dwelling units situated in the locality or metropolitan area substantially equal in number to the number of newly constructed dwelling units provided by such project; provided, that where more than one family is living in an unsafe or unsanitary dwelling unit, the elimination of such unit shall count as the elimination of units equal to the number of families accommodated therein; and provided, further, that such elimination may in the discretion of the board, be deferred in any locality or metropolitan area where there is an acute shortage of decent, or sanitary housing available to families of low-income; and provided, further, that this requirement shall not apply in the case of any low-rent housing project located in a rural non-farm area, or to any low-rent housing project developed on the site of a sub-standard area, or to any project undertaken under the provision of section twenty-six IV. (1938, 484, appvd. 7/5/38. Declared an emergency law; 1946, 574, sec. 1, appvd. 6/14/46. Declared an emergency law; effective upon approval). 1949, 760, sec. 3, appvd. 8/27/49. Declared an emergency law; effective upon approval.

REHABILITATION OF DWELLING ACCOMMODATIONS

SECTION 26111. It is hereby declared (a) that there exist in certain cities and towns in the Commonwealth sub-standard dwelling houses in urban renewal project areas which constitute a serious and growing menace and create a housing shortage, injurious to the public health, safety, morals and welfare of the residents of the Commonwealth, and the declarations heretofore made in the housing authority law with respect to such areas are hereby reaffirmed; (b) that while many of such dwelling houses may require acquisition and clearance as provided in the Housing Authority Law because their state of deterioration may make impracticable their reclamation by conservation or rehabilitation, others in such areas are in such condition that they may, through the means provided in section twenty-six JJJ, be conserved or rehabilitated in such a manner that the conditions and evils herein-before enumerated may be alleviated or eliminated so that such dwelling houses may be returned to or remain in private ownership and be available as decent, safe and sanitary housing; and (c) that all powers conferred by said section twenty-six JJJ are for public uses and purposes for which public money may be expended.

Appendix II:

Chapter 761, Acts of 1968

In setting up DCA, the Legislature instructed the department to:

1. "Formulate in cooperation with related state agencies and submit to the governor and the general court on or before December 4, 1970 and from time thereafter on a biannual basis a Model Codes shall be complete in every regard and take advantage of recommendations available from Federal agencies and other national organizations. The department shall, in coordination with other state agencies and upon the request of any community, advise and aid communities in the enforcement of the Housing Code pursuant to law..."

2. "formulate and submit to the governor and the general court on or before December 4, 1970, a comprehensive housing-for-the-elderly program and matters relating thereto, including, but not limited to, the identification of elderly housing needs, locational and financial requirements."
3. "formulate and submit annually to the governor and the general court beginning on or before December 4, 1970, a Five Year comprehensive housing program for low and moderate-income families, including, but not limited to: the establishment of the number of units required; the geographic distribution among the municipalities of the Commonwealth in specific conformance with the Commonwealth and Federal open housing laws; recognition of needed social, education, and health services and work opportunities; recognition of specific housing needs for persons displaced by public action; recommendations for local, Commonwealth and Federal programs for the acquisition and sale or rent of one-, two- and three family-unit structures; and of a housing financing program for low and moderate income families incorporating recommendations for Federal, Commonwealth, municipal and private financial loan and grant participation for implementation of land and building acquisition, construction, maintenance, rehabilitation, leased housing and rent supplementation..."

We consider the above directives the closest thing to a mandate in the laws concerning housing. Unfortunately these deal only with planning and, to some extent, policy formation. But as we all know, the manner in which a law is enforced determines the true nature of its effectiveness. By formulating a strong housing board, weakly-worded laws may be strengthened by implementation.

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R Rothschild, Paul H.

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